

BEFORE THE  
BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Statement of Issues Against:

**CHARLES JOSHUA MARTIN**

Applicant for Registered Nurse License

Respondent

Case No. 2011 – 978

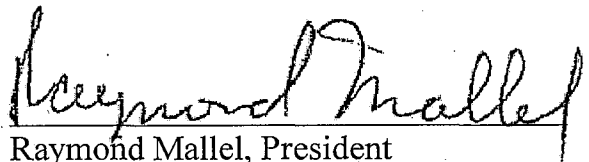
OAH No. 2011110125

**DECISION AND ORDER**

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in the above entitled matter.

This Decision shall become effective on August 30, 2012.

IT IS SO ORDERED July 31, 2012.



Raymond Mallel, President  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California

1 KAMALA D. HARRIS  
Attorney General of California  
2 ARTHUR D. TAGGART  
Supervising Deputy Attorney General  
3 KAREN R. DENVIR  
Deputy Attorney General  
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7 *Attorneys for Complainant*

8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

11 In the Matter of the Statement of Issues  
12 Against:

13 **CHARLES JOSHUA MARTIN**

14  
15 Respondent.

Case No. 2011-978

OAH No. 2011-978

16 **STIPULATED SETTLEMENT AND**  
17 **DISCIPLINARY ORDER**

18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
19 entitled proceedings that the following matters are true:

20 **PARTIES**

21 1. Louise R. Bailey, M.Ed., RN (Complainant) is the Interim Executive Officer of the  
22 Board of Registered Nursing. She brought this action solely in her official capacity and is  
23 represented in this matter by Kamala D. Harris, Attorney General of the State of California, by  
24 Karen R. Denvir, Deputy Attorney General.

25 2. Respondent Charles Joshua Martin (Respondent) is represented in this proceeding by  
26 attorney Adam G. Slote, whose address is: 255 California Street, Suite 1300, San Francisco, CA  
27 94111.

28 3. On or about December 20, 2010, Respondent filed an application dated December 20,  
2010, with the Board of Registered Nursing to obtain a Registered Nurse License.

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5. A copy of Statement of Issues No. 2011-978 is attached as exhibit A and incorporated herein by reference.

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Statement of Issues No. 2011-978. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

9. Respondent admits the truth of each and every charge and allegation in Statement of Issues No. 2011-978.

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CONTINGENCY

11. This stipulation shall be subject to approval by the Board of Registered Nursing. Respondent understands and agrees that counsel for Complainant and the staff of the Board of Registered Nursing may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

12. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

13. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

14. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

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1 **DISCIPLINARY ORDER**

2 IT IS HEREBY ORDERED

3 The application of Respondent Charles Joshua Martin for licensure is hereby granted. Upon  
4 successful completion of the licensure examination and all other licensing requirements, a license  
5 shall be issued to Respondent. Said license shall immediately be revoked, the order of revocation  
6 stayed and Respondent placed on probation for a period of five (5) years on the following  
7 conditions:

8 **Severability Clause.** Each condition of probation contained herein is a separate and  
9 distinct condition. If any condition of this Order, or any application thereof, is declared  
10 unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other  
11 applications thereof, shall not be affected. Each condition of this Order shall separately be valid  
12 and enforceable to the fullest extent permitted by law.

13 1. **Obey All Laws.** Respondent shall obey all federal, state and local laws. A full and  
14 detailed account of any and all violations of law shall be reported by Respondent to the Board in  
15 writing within seventy-two (72) hours of occurrence. To permit monitoring of compliance with  
16 this condition, Respondent shall submit completed fingerprint forms and fingerprint fees within  
17 45 days of the effective date of the decision, unless previously submitted as part of the licensure  
18 application process.

19 **Criminal Court Orders:** If Respondent is under criminal court orders, including  
20 probation or parole, and the order is violated, this shall be deemed a violation of these probation  
21 conditions, and may result in the filing of an accusation and/or petition to revoke probation.

22 2. **Comply with the Board's Probation Program.** Respondent shall fully comply with  
23 the conditions of the Probation Program established by the Board and cooperate with  
24 representatives of the Board in its monitoring and investigation of the Respondent's compliance  
25 with the Board's Probation Program. Respondent shall inform the Board in writing within no  
26 more than 15 days of any address change and shall at all times maintain an active, current license  
27 status with the Board, including during any period of suspension.

28 Upon successful completion of probation, Respondent's license shall be fully restored.

1           3.     **Report in Person.** Respondent, during the period of probation, shall appear in  
2 person at interviews/meetings as directed by the Board or its designated representatives.

3           4.     **Residency, Practice, or Licensure Outside of State.** Periods of residency or  
4 practice as a registered nurse outside of California shall not apply toward a reduction of this  
5 probation time period. Respondent's probation is tolled, if and when he resides outside of  
6 California. Respondent must provide written notice to the Board within 15 days of any change of  
7 residency or practice outside the state, and within 30 days prior to re-establishing residency or  
8 returning to practice in this state.

9           Respondent shall provide a list of all states and territories where he has ever been licensed  
10 as a registered nurse, vocational nurse, or practical nurse. Respondent shall further provide  
11 information regarding the status of each license and any changes in such license status during the  
12 term of probation. Respondent shall inform the Board if he applies for or obtains a new nursing  
13 license during the term of probation.

14          5.     **Submit Written Reports.** Respondent, during the period of probation, shall submit  
15 or cause to be submitted such written reports/declarations and verification of actions under  
16 penalty of perjury, as required by the Board. These reports/declarations shall contain statements  
17 relative to Respondent's compliance with all the conditions of the Board's Probation Program.  
18 Respondent shall immediately execute all release of information forms as may be required by the  
19 Board or its representatives.

20          Respondent shall provide a copy of this Decision to the nursing regulatory agency in every  
21 state and territory in which he has a registered nurse license.

22          6.     **Function as a Registered Nurse.** Respondent, during the period of probation, shall  
23 engage in the practice of registered nursing in California for a minimum of 24 hours per week for  
24 6 consecutive months or as determined by the Board.

25          For purposes of compliance with the section, "engage in the practice of registered nursing"  
26 may include, when approved by the Board, volunteer work as a registered nurse, or work in any  
27 non-direct patient care position that requires licensure as a registered nurse.

28          The Board may require that advanced practice nurses engage in advanced practice nursing

1 for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

2 If Respondent has not complied with this condition during the probationary term, and  
3 Respondent has presented sufficient documentation of his good faith efforts to comply with this  
4 condition, and if no other conditions have been violated, the Board, in its discretion, may grant an  
5 extension of Respondent's probation period up to one year without further hearing in order to  
6 comply with this condition. During the one year extension, all original conditions of probation  
7 shall apply.

8 **7. Employment Approval and Reporting Requirements.** Respondent shall obtain  
9 prior approval from the Board before commencing or continuing any employment, paid or  
10 voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all  
11 performance evaluations and other employment related reports as a registered nurse upon request  
12 of the Board.

13 Respondent shall provide a copy of this Decision to his employer and immediate  
14 supervisors prior to commencement of any nursing or other health care related employment.

15 In addition to the above, Respondent shall notify the Board in writing within seventy-two  
16 (72) hours after he obtains any nursing or other health care related employment. Respondent  
17 shall notify the Board in writing within seventy-two (72) hours after he is terminated or separated,  
18 regardless of cause, from any nursing, or other health care related employment with a full  
19 explanation of the circumstances surrounding the termination or separation.

20 **8. Supervision.** Respondent shall obtain prior approval from the Board regarding  
21 Respondent's level of supervision and/or collaboration before commencing or continuing any  
22 employment as a registered nurse, or education and training that includes patient care.

23 Respondent shall practice only under the direct supervision of a registered nurse in good  
24 standing (no current discipline) with the Board of Registered Nursing, unless alternative methods  
25 of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are  
26 approved.

27 Respondent's level of supervision and/or collaboration may include, but is not limited to the  
28 following:

1 (a) Maximum - The individual providing supervision and/or collaboration is present in  
2 the patient care area or in any other work setting at all times.

3 (b) Moderate - The individual providing supervision and/or collaboration is in the patient  
4 care unit or in any other work setting at least half the hours Respondent works.

5 (c) Minimum - The individual providing supervision and/or collaboration has person-to-  
6 person communication with Respondent at least twice during each shift worked.

7 (d) Home Health Care - If Respondent is approved to work in the home health care  
8 setting, the individual providing supervision and/or collaboration shall have person-to-person  
9 communication with Respondent as required by the Board each work day. Respondent shall  
10 maintain telephone or other telecommunication contact with the individual providing supervision  
11 and/or collaboration as required by the Board during each work day. The individual providing  
12 supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to  
13 patients' homes visited by Respondent with or without Respondent present.

14 9. **Employment Limitations.** Respondent shall not work for a nurse's registry, in any  
15 private duty position as a registered nurse, a temporary nurse placement agency, a traveling nurse,  
16 or for an in-house nursing pool.

17 Respondent shall not work for a licensed home health agency as a visiting nurse unless the  
18 registered nursing supervision and other protections for home visits have been approved by the  
19 Board. Respondent shall not work in any other registered nursing occupation where home visits  
20 are required.

21 Respondent shall not work in any health care setting as a supervisor of registered nurses.  
22 The Board may additionally restrict Respondent from supervising licensed vocational nurses  
23 and/or unlicensed assistive personnel on a case-by-case basis.

24 Respondent shall not work as a faculty member in an approved school of nursing or as an  
25 instructor in a Board approved continuing education program.

26 Respondent shall work only on a regularly assigned, identified and predetermined  
27 worksite(s) and shall not work in a float capacity.

28 If Respondent is working or intends to work in excess of 40 hours per week, the Board may



request documentation to determine whether there should be restrictions on the hours of work.

10. **Complete a Nursing Course(s).** Respondent, at his own expense, shall enroll and successfully complete a course(s) relevant to the practice of registered nursing no later than six months prior to the end of his probationary term.

Respondent shall obtain prior approval from the Board before enrolling in the course(s). Respondent shall submit to the Board the original transcripts or certificates of completion for the above required course(s). The Board shall return the original documents to Respondent after photocopying them for its records.

11. **Violation of Probation.** If Respondent violates the conditions of his probation, the Board after giving Respondent notice and an opportunity to be heard, may set aside the stay order and impose the stayed discipline (revocation/suspension) of Respondent's license.

If during the period of probation, an accusation or petition to revoke probation has been filed against Respondent's license or the Attorney General's Office has been requested to prepare an accusation or petition to revoke probation against Respondent's license, the probationary period shall automatically be extended and shall not expire until the accusation or petition has been acted upon by the Board.

12. **License Surrender.** During Respondent's term of probation, if he ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of probation, Respondent may surrender his license to the Board. The Board reserves the right to evaluate Respondent's request and to exercise its discretion whether to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances, without further hearing. Upon formal acceptance of the tendered license and wall certificate, Respondent will no longer be subject to the conditions of probation.

Surrender of Respondent's license shall be considered a disciplinary action and shall become a part of Respondent's license history with the Board. A registered nurse whose license has been surrendered may petition the Board for reinstatement no sooner than the following minimum periods from the effective date of the disciplinary decision:

- (1) Two years for reinstatement of a license that was surrendered for any reason other

1 than a mental or physical illness; or

2 (2) One year for a license surrendered for a mental or physical illness.

3 13. **Physical Examination.** Within 45 days of the effective date of this Decision,  
4 Respondent, at his expense, shall have a licensed physician, nurse practitioner, or physician  
5 assistant, who is approved by the Board before the assessment is performed, submit an  
6 assessment of the Respondent's physical condition and capability to perform the duties of a  
7 registered nurse. Such an assessment shall be submitted in a format acceptable to the Board. If  
8 medically determined, a recommended treatment program will be instituted and followed by the  
9 Respondent with the physician, nurse practitioner, or physician assistant providing written reports  
10 to the Board on forms provided by the Board.

11 If Respondent is determined to be unable to practice safely as a registered nurse, the  
12 licensed physician, nurse practitioner, or physician assistant making this determination shall  
13 immediately notify the Board and Respondent by telephone, and the Board shall request that the  
14 Attorney General's office prepare an accusation or petition to revoke probation. Respondent shall  
15 immediately cease practice and shall not resume practice until notified by the Board. During this  
16 period of suspension, Respondent shall not engage in any practice for which a license issued by  
17 the Board is required until the Board has notified Respondent that a medical determination  
18 permits Respondent to resume practice. This period of suspension will not apply to the reduction  
19 of this probationary time period.

20 If Respondent fails to have the above assessment submitted to the Board within the 45-day  
21 requirement, Respondent shall immediately cease practice and shall not resume practice until  
22 notified by the Board. This period of suspension will not apply to the reduction of this  
23 probationary time period. The Board may waive or postpone this suspension only if significant,  
24 documented evidence of mitigation is provided. Such evidence must establish good faith efforts  
25 by Respondent to obtain the assessment, and a specific date for compliance must be provided.  
26 Only one such waiver or extension may be permitted.

27 14. **Participate in Treatment/Rehabilitation Program for Chemical Dependence.**  
28 Respondent, at his expense, shall successfully complete during the probationary period or shall

1 have successfully completed prior to commencement of probation a Board-approved  
2 treatment/rehabilitation program of at least six months duration. As required, reports shall be  
3 submitted by the program on forms provided by the Board. If Respondent has not completed a  
4 Board-approved treatment/rehabilitation program prior to commencement of probation,  
5 Respondent, within 45 days from the effective date of the decision, shall be enrolled in a program.  
6 If a program is not successfully completed within the first nine months of probation, the Board  
7 shall consider Respondent in violation of probation.

8 Based on Board recommendation, each week Respondent shall be required to attend at least  
9 one, but no more than five 12-step recovery meetings or equivalent (e.g., Narcotics Anonymous,  
10 Alcoholics Anonymous, etc.) and a nurse support group as approved and directed by the Board.  
11 If a nurse support group is not available, an additional 12-step meeting or equivalent shall be  
12 added. Respondent shall submit dated and signed documentation confirming such attendance to  
13 the Board during the entire period of probation. Respondent shall continue with the recovery plan  
14 recommended by the treatment/rehabilitation program or a licensed mental health examiner  
15 and/or other ongoing recovery groups.

16 **15. Abstain from Use of Psychotropic (Mood-Altering) Drugs.** Respondent shall  
17 completely abstain from the possession, injection or consumption by any route of all controlled  
18 substances and all psychotropic (mood altering) drugs, including alcohol, except when the same  
19 are ordered by a health care professional legally authorized to do so as part of documented  
20 medical treatment. Respondent shall have sent to the Board, in writing and within fourteen (14)  
21 days, by the prescribing health professional, a report identifying the medication, dosage, the date  
22 the medication was prescribed, the Respondent's prognosis, the date the medication will no  
23 longer be required, and the effect on the recovery plan, if appropriate.

24 Respondent shall identify for the Board a single physician, nurse practitioner or physician  
25 assistant who shall be aware of Respondent's history of substance abuse and will coordinate and  
26 monitor any prescriptions for Respondent for dangerous drugs, controlled substances or mood-  
27 altering drugs. The coordinating physician, nurse practitioner, or physician assistant shall report  
28 to the Board on a quarterly basis Respondent's compliance with this condition. If any substances

1 considered addictive have been prescribed, the report shall identify a program for the time limited  
2 use of any such substances.

3 The Board may require the single coordinating physician, nurse practitioner, or physician  
4 assistant to be a specialist in addictive medicine, or to consult with a specialist in addictive  
5 medicine.

6 **16. Submit to Tests and Samples.** Respondent, at his expense, shall participate in a  
7 random, biological fluid testing or a drug screening program which the Board approves. The  
8 length of time and frequency will be subject to approval by the Board. Respondent is responsible  
9 for keeping the Board informed of Respondent's current telephone number at all times.

10 Respondent shall also ensure that messages may be left at the telephone number when he is not  
11 available and ensure that reports are submitted directly by the testing agency to the Board, as  
12 directed. Any confirmed positive finding shall be reported immediately to the Board by the  
13 program and Respondent shall be considered in violation of probation.

14 In addition, Respondent, at any time during the period of probation, shall fully cooperate  
15 with the Board or any of its representatives, and shall, when requested, submit to such tests and  
16 samples as the Board or its representatives may require for the detection of alcohol, narcotics,  
17 hypnotics, dangerous drugs, or other controlled substances.

18 If Respondent has a positive drug screen for any substance not legally authorized and not  
19 reported to the coordinating physician, nurse practitioner, or physician assistant, and the Board  
20 files a petition to revoke probation or an accusation, the Board may suspend Respondent from  
21 practice pending the final decision on the petition to revoke probation or the accusation. This  
22 period of suspension will not apply to the reduction of this probationary time period.

23 If Respondent fails to participate in a random, biological fluid testing or drug screening  
24 program within the specified time frame, Respondent shall immediately cease practice and shall  
25 not resume practice until notified by the Board. After taking into account documented evidence  
26 of mitigation, if the Board files a petition to revoke probation or an accusation, the Board may  
27 suspend Respondent from practice pending the final decision on the petition to revoke probation  
28 or the accusation. This period of suspension will not apply to the reduction of this probationary

1 time period.

2       **17. Mental Health Examination.** Respondent shall, within 45 days of the effective date  
3 of this Decision, have a mental health examination including psychological testing as appropriate  
4 to determine his capability to perform the duties of a registered nurse. The examination will be  
5 performed by a psychiatrist, psychologist or other licensed mental health practitioner approved by  
6 the Board. The examining mental health practitioner will submit a written report of that  
7 assessment and recommendations to the Board. All costs are the responsibility of Respondent.  
8 Recommendations for treatment, therapy or counseling made as a result of the mental health  
9 examination will be instituted and followed by Respondent.

10       If Respondent is determined to be unable to practice safely as a registered nurse, the  
11 licensed mental health care practitioner making this determination shall immediately notify the  
12 Board and Respondent by telephone, and the Board shall request that the Attorney General's  
13 office prepare an accusation or petition to revoke probation. Respondent shall immediately cease  
14 practice and may not resume practice until notified by the Board. During this period of  
15 suspension, Respondent shall not engage in any practice for which a license issued by the Board  
16 is required, until the Board has notified Respondent that a mental health determination permits  
17 Respondent to resume practice. This period of suspension will not apply to the reduction of this  
18 probationary time period.

19       If Respondent fails to have the above assessment submitted to the Board within the 45-day  
20 requirement, Respondent shall immediately cease practice and shall not resume practice until  
21 notified by the Board. This period of suspension will not apply to the reduction of this  
22 probationary time period. The Board may waive or postpone this suspension only if significant,  
23 documented evidence of mitigation is provided. Such evidence must establish good faith efforts  
24 by Respondent to obtain the assessment, and a specific date for compliance must be provided.  
25 Only one such waiver or extension may be permitted.

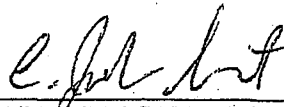
26       **18. Therapy or Counseling Program.** Respondent, at his expense, shall participate in  
27 an on-going counseling program until such time as the Board releases him from this requirement  
28 and only upon the recommendation of the counselor. Written progress reports from the counselor

1 will be required at various intervals.

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3  
4 ACCEPTANCE

5 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully  
6 discussed it with my attorney, Adam G. Slote. I understand the stipulation and the effect it will  
7 have on my Registered Nurse License. I enter into this Stipulated Settlement and Disciplinary  
8 Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order  
9 of the Board of Registered Nursing.


10  
11 DATED: 6/29/12

  
12 CHARLES JOSHUA MARTIN  
13 Respondent

14 I have read and fully discussed with Respondent Charles Joshua Martin the terms and  
15 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.  
16 I approve its form and content.

17 DATED: \_\_\_\_\_

Digitally signed by Adam G. Slote  
DN: cn=Adam G. Slote, o=Slote & Links, ou,  
email=adam@slotelaw.com, c=US  
Date: 2012.06.29 17:56:58 -07'00

  
18 Adam G. Slote  
19 Attorney for Respondent

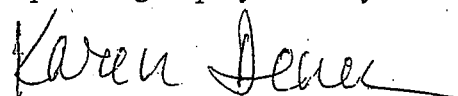
ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Registered Nursing of the Department of Consumer Affairs.

Dated: July 2, 2012

Respectfully submitted,

KAMALA D. HARRIS  
Attorney General of California  
ARTHUR D. TAGGART  
Supervising Deputy Attorney General



KAREN R. DENVIR  
Deputy Attorney General  
*Attorneys for Complainant*

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## **Exhibit A**

**Statement of Issues No. 2011-978**



1 KAMALA D. HARRIS  
Attorney General of California  
2 ALFREDO TERRAZAS  
Senior Assistant Attorney General  
3 ARTHUR D. TAGGART  
Supervising Deputy Attorney General  
4 State Bar No. 083047  
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6 Telephone: (916) 324-5339  
Facsimile: (916) 327-8643  
7 *Attorneys for Complainant*

8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Statement of Issues Against:

Case No. 2011-978

13 **CHARLES JOSHUA MARTIN**  
876 E. Divisadero Street, #210  
14 Fresno, CA 93721

**STATEMENT OF ISSUES**

Respondent.

15  
16 Complainant alleges:

17 **PARTIES**

18 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Statement of Issues solely  
19 in her official capacity as the Executive Officer of the Board of Registered Nursing ("Board"),  
20 Department of Consumer Affairs.

21 2. On or about December 20, 2010, the Board received an application for a registered  
22 nurse license from Charles Joshua Martin ("Respondent"). On or about December 20, 2010,  
23 Respondent certified under penalty of perjury to the truthfulness of all statements, answers, and  
24 representations in the application. The Board denied the application on March 18, 2011.

25 **STATUTORY AND REGULATORY PROVISIONS**

26 3. Business and Professions Code ("Code") section 2736 provides, in pertinent part, that  
27 the Board may deny a license when it finds that the applicant has committed any acts constituting  
28 grounds for denial of licensure under section 480 of that Code.

1 4. Code section 480 states, in pertinent part:

2 (a) A board may deny a license regulated by this code on the grounds  
3 that the applicant has one of the following:

4 (1) Been convicted of a crime. A conviction within the meaning of this  
5 section means a plea or verdict of guilty or a conviction following a plea of nolo  
6 contendere. Any action which a board is permitted to take following the  
7 establishment of a conviction may be taken when the time for appeal has elapsed, or  
8 the judgment of conviction has been affirmed on appeal, or when an order granting  
9 probation is made suspending the imposition of sentence, irrespective of a subsequent  
10 order under the provisions of Section 1203.4 of the Penal Code.

11 (2) Done any act involving dishonesty, fraud or deceit with the intent to  
12 substantially benefit himself or another, or substantially injure another; or

13 (3)(A) Done any act that if done by a licentiate of the business or  
14 profession in question, would be grounds for suspension or revocation of license.

15 (B) The board may deny a license pursuant to this subdivision only if the  
16 crime or act is substantially related to the qualifications, functions, or duties of the  
17 business or profession for which application is made ...

18 5. Code section 2761 states, in pertinent part:

19 The board may take disciplinary action against a certified or licensed  
20 nurse or deny an application for a certificate or license for any of the following:

21 (a) Unprofessional conduct ...

22 (f) Conviction of a felony or of any offense substantially related to the  
23 qualifications, functions, and duties of a registered nurse, in which event the record of  
24 the conviction shall be conclusive evidence thereof ...

25 6. Code section 2762 states, in pertinent part:

26 In addition to other acts constituting unprofessional conduct within the  
27 meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a  
28 person licensed under this chapter to do any of the following:

29 (b) Use any controlled substance as defined in Division 10 (commencing  
30 with Section 11000) of the Health and Safety Code, or any dangerous drug or  
31 dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or  
32 in a manner dangerous or injurious to himself or herself, any other person, or the  
33 public or to the extent that such use impairs his or her ability to conduct with safety to  
34 the public the practice authorized by his or her license.

35 ///

(c) Be convicted of a criminal offense involving the prescription, consumption, or self administration of any of the substances described in subdivisions (a) and (b) of this section . . .

7. Code section 2765 states:

A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions and duties of a registered nurse is deemed to be a conviction within the meaning of this article. The board may order the license or certificate suspended or revoked, or may decline to issue a license or certificate, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

8. California Code of Regulations, title 16, section 1444 states, in pertinent part:

A conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare. Such convictions or acts shall include but not be limited to the following:

.....  
(c) Theft, dishonesty, fraud, or deceit . . .

#### FIRST CAUSE FOR DENIAL

##### (Criminal Convictions)

9. Respondent's application is subject to denial pursuant to Code sections 2736, 2761, subdivision (f), 480, subdivision (a)(1), and 480, subdivision (a)(3)(A), in that Respondent was convicted of crimes which are substantially related to the qualifications, functions, and duties of a registered nurse, as follows:

a. On or about February 22, 1993, in the criminal proceeding titled *People v. Charles Joshua Martin* (Muni Ct. Santa Barbara County, 1993, Case No. 428164), Respondent pled no contest to violating Penal Code section 484, subdivision (a) (petty theft, a misdemeanor), and County Ordinance Code section 13A-3 (possession of drug paraphernalia, a misdemeanor). The imposition of Respondent's sentence was suspended and Respondent was placed on probation for 3 years on terms and conditions. The circumstances of the crimes are as follows: On or about November 25, 1992, Respondent stole personal property belonging to victim G. M. At the time

1 of his arrest, Respondent had drug paraphernalia in his possession. On December 2, 1993,  
2 Respondent admitted violating the terms of his probation by virtue of his conviction for  
3 residential burglary, set forth in subparagraph (b) below. Respondent's probation was revoked  
4 and Respondent was sentenced to serve 150 days in the Santa Barbara County Jail.

5 b. On or about December 2, 1993, in the criminal proceeding titled *People v. Charles*  
6 *Joshua Martin* (Super. Ct. Santa Barbara County, 1993, Case No. 198746), Respondent pled  
7 guilty to violating Penal Code section 459 (residential burglary, a felony). The imposition of  
8 Respondent's sentence was suspended and Respondent was placed on probation for 5 years on  
9 terms and conditions, including that Respondent abstain from all alcoholic beverages.  
10 Respondent was also sentenced to serve 30 days in the Santa Barbara County Jail (to be served  
11 concurrently with his jail sentence for his conviction of February 22, 1993). The circumstances  
12 of the crime are as follows: On or about July 6, 1993, Respondent willfully and unlawfully  
13 entered victim C. M.'s home with the intent to commit larceny and a felony. On July 1, 1994,  
14 September 11, 1994, 1995, and April 10, 1997, Respondent violated the terms of his probation  
15 and on each occasion, his probation was reinstated.<sup>1</sup>

16 c. On or about April 15, 1994, in Santa Barbara County Superior Court, Case No.  
17 444119, Respondent was convicted of violating Penal Code section 148.9, subdivision (a)  
18 (presenting a false identity to a peace officer, a misdemeanor).

19 d. On or about May 6, 1994, in Santa Barbara County Superior Court, Case No. 444566,  
20 Respondent was convicted of violating Penal Code section 415, subdivision (1) (unlawfully  
21 fighting in a public place or challenging another person in a public place to fight, a  
22 misdemeanor).

23 e. On or about December 3, 2002, in the criminal proceeding titled *People v. Charles*  
24 *Joshua Martin* (Super. Ct. San Luis Obispo County, 2002, Case No. M000335106), Respondent  
25 pled guilty to violating Penal Code section 647, subdivision (f) (disorderly conduct: public  
26 drunkenness, a misdemeanor). The circumstances of the crime are as follows: On or about

27 <sup>1</sup> Respondent violated probation due to his non-compliance with the term requiring him to  
28 abstain from alcoholic beverages.

1 November 29, 2002, Respondent was in a public place under the influence of alcohol and was in  
2 such a condition that he was unable to exercise care for his own safety and the safety of others.

3 f. On or about November 18, 2010, in the criminal proceeding titled *People v. Charles*  
4 *Joshua Martin* (Super. Ct. San Luis Obispo County, 2010, Case No. M000451814), Respondent  
5 pled no contest to violating Vehicle Code section 23152, subdivision (b) (driving while having a  
6 .08% or higher blood alcohol, a misdemeanor). The circumstances of the crime are as follows:  
7 On or about September 11, 2010, Respondent willfully and unlawfully drove a vehicle while  
8 having a blood alcohol level of .23%. The imposition of Respondent's sentence was suspended  
9 and Respondent was placed on probation for 3 years on terms and conditions.

#### 10 SECOND CAUSE FOR DENIAL

##### 11 (Use of Alcoholic Beverages to an Extent or in a Manner

##### 12 Dangerous or Injurious to Oneself and Others)

13 10. Respondent's application is subject to denial pursuant to Code sections 2761,  
14 subdivision (a), 2762, subdivision (b), and 480, subdivision (a)(3), in that on or about November  
15 29, 2002, and September 11, 2010, Respondent consumed alcoholic beverages to an extent or in a  
16 manner dangerous or injurious to himself, others, and the public, as set forth in subparagraphs 9  
17 (e) and (f) above.

#### 18 THIRD CAUSE FOR DENIAL

##### 19 (Conviction of Criminal Offenses Involving

##### 20 the Consumption of Alcoholic Beverages)

21 11. Respondent's application is subject to denial pursuant to Code sections 2761,  
22 subdivision (a), 2762, subdivision (c), and 480, subdivision (a)(3), in that on or about December  
23 3, 2002, and November 18, 2010, Respondent was convicted of criminal offenses involving the  
24 consumption of alcoholic beverages, as set forth in subparagraphs 9 (e) and (f) above.

#### 25 FOURTH CAUSE FOR DENIAL

##### 26 (Dishonesty, Fraud or Deceit)

27 12. Respondent's application is subject to denial pursuant to Code section 480,  
28 subdivision (a)(2), in that he committed acts involving dishonesty, fraud, or deceit with the intent

1 to substantially benefit himself or another, or substantially injure another, as set forth in  
2 subparagraphs 9 (a) through (c) above.

3 PRAYER

4 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
5 and that following the hearing, the Board of Registered Nursing issue a decision:

- 6 1. Denying the application of Charles Joshua Martin for a registered nurse license;  
7 2. Taking such other and further action as deemed necessary and proper.

8  
9 DATED: 06-13-2011

*Louise R. Bailey*  
LOUISE R. BAILEY, M.ED., RN  
Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
*Complainant*

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